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8 | *Attorneys for Plaintiff Donald Sherman*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

12 | DONALD SHERMAN,

13 Plaintiff,

14 || v.

15 HAROLD WICKHAM, in his personal  
16 capacity; KIM THOMAS, in his personal  
17 capacity; WILLIAM GITTERE, in his  
18 personal capacity and in his official capacity as  
19 Deputy Director of Operations of the Nevada  
20 Department of Corrections; BRIAN  
21 WILLIAMS, in his official capacity as Deputy  
22 Director of Programs of the Nevada  
Department of Corrections; WILLIAM  
REUBART, in his personal capacity and in his  
official capacity as Warden of Ely State  
Prison; DAVID DRUMMOND, in his official  
capacity as Associate Warden of Ely State  
Prison; and TASHEENA COOKE, in her  
official capacity as Associate Warden of Ely  
State Prison,

## Defendants.

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Case No. 3:21-cv-00168-ART-CSD

**JOINT STIPULATION TO  
CONTINUE STAY OF SCHEDULING  
ORDER AND DISCOVERY PLAN**

## **(Eighth Request)**

Hon. Anne R. Traum  
Hon. Craig S. Denney

**JOINT STIPULATION TO CONTINUE STAY OF CASE MANAGEMENT SCHEDULE**

Pursuant to LR IA 6-1 and LR 26-3, counsel for Plaintiff Donald Sherman and counsel for Defendants Harold Wickham, Kim Thomas, William Gittere, Brian Williams, William Reubart, David Drummond, and Tasheena Cooke respectfully submit this joint stipulation to continue the stay of the current case management deadlines stated in the Court's December 2, 2022 Order granting the Parties' Joint Motion to Extend Discovery and Scheduling Deadlines, *see* Dkt. No. 78 (the "Order"), in order to permit the parties to explore a global settlement relating to Plaintiff's claims, *see* Dkt. No. 95.

This is the eighth stipulation to stay the current scheduling Order. The Court previously stayed and extended case management dates on five prior occasions pursuant to the parties' stipulation. *See* Dkt. Nos. 70-71, 94-95, 101-02, 107-08, 109-10, 111-12, 114-15. The parties request to continue the stay of the case management schedule to allow them to continue mediation efforts to explore a global settlement of Plaintiff's claims.

Plaintiff filed a First Amended Complaint on July 18, 2022, adding five new defendants—Gittere, Williams, Reubart, Drummond, and Cooke—in addition to Defendants Wickham and Thomas, who Plaintiff named in the original Complaint. *See* Dkt. No. 57. The newly added Defendants returned waivers of service of the summons on September 23, 2022, and filed an answer to the First Amended Complaint on October 18, 2022. *See* Dkt. Nos. 65-69, 72. Additionally, Plaintiff filed a Renewed Motion for Preliminary Injunction on June 2, 2022. *See* Dkt. No. 47 (the "Motion"). On August 3, 2022, Judge Denney issued a Report and Recommendation Granting in Part Plaintiff's Motion. *See* Dkt. No. 62. Defendants thereafter filed objections to Judge Denney's Report and Recommendation. *See* Dkt. No. 63. On March 29, 2023, Judge Traum issued an Order Overruling Defendants' Objections to Magistrate Judge Denney's Report and Recommendation. *See* Dkt. No. 80. In that order, the Court directed the parties to "meet and confer regarding the specifics of Sherman's access to the sweat lodge." *See id.* at 17. On March 28, 2023, Defendants filed a Notice of Appeal of the Court's March 29, 2023 order. *See* Dkt. No. 84. Following the filing of Defendants' notice of appeal, the Ninth Circuit ordered the parties to participate in a mediation conference with the Circuit Mediator and

1 thereafter stayed the briefing schedule by ninety days. *See* Ninth Circuit Case No. 23-15665,  
 2 Dkt. Nos. 5, 9, 11. The Parties participated in eleven mediation conferences, during which time  
 3 the Ninth Circuit continued the stay on the appellate briefing schedule for an additional 90 days.  
 4 *See id.*, Dkt. Nos. 9, 12-13, 15, 17, 18-24; *see also* D. Nev. Case No. 3:21-cv-00168, Dkt. Nos.  
 5 82, 88, 91, 93, 97, 100, 104. On December 8, 2023, the parties filed a Joint Stipulation Relating  
 6 to Proposed Relief for Plaintiff's Renewed Motion for Preliminary Injunction outlining the  
 7 specifics of Plaintiff's access to the sweat lodge at Ely State Prison, which the Court  
 8 subsequently granted. *See id.*, Dkt. Nos. 105-06.

9 The parties are now working on a global resolution of Plaintiff's claims under the Ninth  
 10 Circuit Mediation Program. In the interest of conserving the Court's and the parties' resources,  
 11 and in order to permit the parties to continue negotiating a resolution of the case, counsel for the  
 12 parties jointly request to continue the stay of the current case management dates granted by the  
 13 Court on September 18, 2024. *See* D. Nev. Case No. 3:21-cv-00168, Dkt. No. 115.

14 Counsel for the parties have met and conferred regarding this Stipulation and proposed  
 15 stay, and no party objects to the requested stay. This Stipulation is being made in good faith and  
 16 not for the purpose of delay.

#### 17 **DISCOVERY COMPLETED TO DATE**

18 Plaintiff and Defendants have exchanged their mandatory initial disclosures. Prior to the  
 19 filing of the First Amended Complaint, Plaintiff propounded written discovery on Defendant  
 20 Harold Wickham, and Defendant Wickham timely responded to such written discovery requests.  
 21 On April 4, 2023, Plaintiff propounded requests for production and interrogatories on Defendants  
 22 Wickham, Cooke, Drummond, Gittere, Reubart, Thomas, and Williams. As of the date of this  
 23 filing, Defendants have not yet responded to those written discovery requests.

#### 24 **DISCOVERY YET TO BE COMPLETED**

25 Plaintiff is awaiting Defendants' responses to the April 4, 2023 requests for production  
 26 and interrogatories. After receiving Defendants' responses, Plaintiff intends to propound  
 27 additional written discovery. After written discovery has been propounded and responded to,  
 28 Plaintiff intends to notice depositions consistent with the Federal Rules of Civil Procedure and

1 the Local Rules. Similarly, Defendants intend to serve written discovery and notice a deposition  
 2 of the Plaintiff according to applicable rules. The parties will meet and confer regarding expert  
 3 discovery and will submit an appropriate stipulation, consistent with the Local Rules, for the  
 4 Court's consideration if expert discovery is anticipated.

#### 5 **REASONS FOR REQUESTED CONTINUANCE OF STAY**

6 The parties request to continue the stay of the current case management deadlines so that  
 7 they can explore a resolution of the case under the Ninth Circuit Mediation Program.

#### 8 **PROPOSED TIMELINE**

9 Through this Stipulation, the parties hereby respectfully request that the Court enter an  
 10 order continuing the stay of the currently imposed case management deadlines set in the Order.  
 11 The parties further stipulate that, no later than forty-five days from November 1, 2024, they will  
 12 file a report apprising the Court of the status of their settlement negotiations, and, if necessary, a  
 13 further stipulation relating to the case management schedule for the Court's review and approval.

14 Therefore, **IT IS HEREBY STIPULATED AND AGREED** between the parties,  
 15 through their counsel, and subject to the Court's approval, that the Court's Order is stayed until  
 16 this Court enters a new scheduling order.

17  
 18 Respectfully submitted,

19 Dated: November 1, 2024

O'MELVENY & MYERS LLP

20 By: /s/ Meaghan VerGow  
 21 Meaghan VerGow

22 *Attorneys for Plaintiff Donald Sherman*

23 Dated: November 1, 2024

MCLETCHIE LAW

24 By: /s/ Lisa A. Rasmussen  
 25 Lisa A. Rasmussen

26 *Attorney for Plaintiff Donald Sherman*

1 Dated: November 1, 2024

2 OFFICE OF THE NEVADA ATTORNEY  
3 GENERAL

4 By: /s/ Chris W. Davis  
5 Chris W. Davis

6 *Attorney for Defendants Harold Wickham et al.*

7 **IT IS SO ORDERED.**

8 Dated this 4<sup>th</sup> day of November, 2024.

9 

10 Honorable Craig S. Denney  
11 United States Magistrate Judge

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